



# Forest Preserve District of DuPage County

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March 23, 2009

EPA Region 5 Records Ctr.



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**VIA FACSIMILE (217-524-3291) and U.S. First Class Mail**

Ms. Christine Roque  
Illinois Environmental Protection Agency  
Bureau of Land  
1021 North Grand Avenue East  
Springfield, IL 62702

Re: ML-6 Investigation Area Gas Probe Exceedances  
Mallard Lake #2, LPC 0438010004-DuPage County, Illinois

Dear Ms. Roque:

As Director of Environmental Services for the Forest Preserve District of DuPage County (the "District"), I am writing to present the District's position regarding the appropriate actions to be taken with respect to the gas exceedances in the ML-6 Investigation area. I understand these actions are consistent with the views of USEPA.

As indicated in the letter dated March 12, 2009, from the District's attorney Chapman and Cutler LLP, a meeting was held on March 17, 2008, with USEPA, IEPA, the District, and BFI Waste Systems of North America LLC ("BFI") to discuss issues relating to the ML-6 Investigation Area pursuant to the Administrative Order on Consent, RCRA 7003-5-008-001, between USEPA, BFI, and the District (the "AOC"). Tom Rivera attended the meeting on behalf of IEPA. At that meeting, the District and BFI confirmed that they would conduct an investigation of possible gas migration on the Greenbrook School property and that, in the event of methane exceedances, a corrective action plan would be implemented. The plan that is envisioned would include installation of an extraction well in the vicinity of ML-6, connected initially to a thermal oxidizer (internal combustion engine with propane fuel). This system will extract the gas detected and destroy the methane and other volatile organic compounds (VOCs). The plan would involve a regular monitoring protocol of the nearby gas probes weekly for pressure, methane, oxygen, and carbon dioxide to determine effectiveness.

Although still in the discussion phase, it is further anticipated that after a short time period of operation, the "pilot" system will be shut down and monitoring will continue for one month to gather background data. At this time, a report will be prepared to evaluate the system effectiveness and determine the appropriate course of future action. Under our proposed plan, possible additional actions include installation of more extraction wells, construction of a passive landfill gas control system, or no further remedial action. In keeping with this proposed plan, we have received e-mails that indicate Tom Rivera has been in communication with the appropriate personnel in

permitting with regard to the timing of a Bureau of Air permit for operation of an oxidizer unit.

The ML-6 gas investigation, including the investigation scheduled to be conducted in the Greenbrook School property, as well as the corrective action plan outlined above, are being conducted pursuant to the AOC. Condition 15 of Section VIII (entitled "Landfill Gas Management/Monitoring") of Modification 32 of the Permit ("Permit Mod 32") provides:

15. Nothing in this permit shall be construed to be inconsistent with the Administrative Order on Consent, EPA Docket No. RCRA 7003-5-08-001 (consent order), entered into by the United States Environmental Protection Agency (USEPA), BFI Waste Systems of North America, Inc. (BFI) and Forest Preserve District of DuPage County (District). In case of apparent conflict the consent order shall govern.

At the March 17, 2009, meeting, USEPA's attorney, Thomas Krueger, confirmed that the investigative and remedial work in the ML-6 Investigation Area has been, and will be, conducted in accordance with the referenced AOC. In keeping with Condition 16 of Section VIII of Permit Mod 32, any modification of the landfill's permitted gas control system will be documented and submitted as a report to IEPA within 30 days after completion of the project. The District will continue to keep IEPA advised of any developments as they occur. If IEPA would prefer, an interim report could be submitted to IEPA which details the "pilot" project.

In view of the foregoing circumstances and the fact that the District and BFI are pursuing a course of investigative and corrective action approved by USEPA pursuant to the AOC, it is the District's position that any requirements for submission and approval by IEPA of a significant modification application respecting the same issues and related approval processes fall within the purview of Condition 15 above. Notwithstanding that fact, the District is fully committed to the investigation of the gas migration in the ML-6 area and conducting such corrective action measures as are warranted.


We also wish to address certain information that apparently has been conveyed to you by AECOM surrounding the circumstances of the permit application modification that it intends to submit on behalf of BFI. Initially, we note that AECOM's letter ignores Condition 15 discussed above and its obvious purpose to avoid conflict between the AOC and any permit modification. As such, AECOM's conclusion that there is a March 23, 2009, deadline for submission of a permit application is in error. Moreover, BFI's draft permit application contains an "alternative source" demonstration that seems to conflict with BFI's commitment at the March 17, 2009, meeting that it would engage in corrective action to address methane exceedances detected in the Greenbrook School property. The District does not agree that it is appropriate to submit to IEPA a permit modification application that is in apparent conflict with those commitments. Likewise, the District is concerned that a conflict may exist between the expedited corrective action commitments that the District and BFI have made under the AOC if gas migration is detected on the Greenbrook School property and the outcome of the IEPA permit review process.

Finally, the District wishes to clarify that certain recent communications by AECOM with your office concerning the submission of a permit modification application occurred without prior notice to and consent by the District. For example, the District did not authorize AECOM to request an eleven-day extension to submit that application. AECOM's March 12, 2009, letter also implies that it already had furnished the draft application to the District by stating that the purpose of the requested "extension" was to allow the District to have "additional time" to review it. To the contrary, the District had not been provided a draft application for review as of that date, and no such draft was provided to the District until the afternoon of March 17, shortly before the meeting with USEPA. Even in the few days afforded to the District to review the draft application, it has identified inaccuracies, data gaps, and incorrect conclusions. Accordingly, it cannot agree to sign the draft application that was presented to it by BFI.

Pursuant to the District's commitments in my February 27, 2009, e-mail to USEPA and IEPA and at the March 17 meeting referenced above, the District, with the technical assistance of RMT, is in the process of conducting an expedited investigation of issues pertaining to the source of the gas detected in the ML-6 Investigation area. As noted above, the District is also committed to expedite corrective actions as may be warranted by the data generated by the further investigation at the Greenbrook School property beginning March 28. The schedule for that work was also outlined at the March 17 meeting, and the USEPA submitted further review comments to me via e-mail on March 20, 2009. The District intends to continue to address this matter in a diligent and timely manner and to keep IEPA advised throughout the process.

Please contact this writer (630-462-5653) if you disagree with this position or have any questions or comments regarding it.

Respectfully,

A handwritten signature in black ink, appearing to read "Joseph R. Benedict", with a long horizontal flourish extending to the right.

Joseph R. Benedict  
Director  
Office of Environmental Services

cc: Mr. Steven Faryan, USEPA ✓  
Mr. Thomas Krueger, USEPA  
Mr. John Richardson, IEPA Bureau of Land  
Mr. Thomas Rivera, IEPA Bureau of Land  
Mr. Jim Hitzeroth, BFI Waste Systems, LLC  
Attorney David Barritt, Chapman and Cutler LLC